

**REMARKS**

Claims 1-4, 8, 9, 11-19, 23, 24, and 26-38 were pending in the application.

Claims 1-4, 8, 9, 11-19, 23, 24, and 26-30 have been rejected.

Claims 31-38 have been withdrawn from consideration and are hereby cancelled.

Claims 1, 4, 8, 9, 13-16, 19, 23, 24, and 28-30 have been amended as shown above.

Claims 39-49 have been added.

Claims 1-4, 8, 9, 11-19, 23, 24, 26-30, and 39-49 are now pending in this application.

Reconsideration and full allowance of Claims 1-4, 8, 9, 11-19, 23, 24, 26-30, and 39-49 are respectfully requested.

**I. OBJECTIONS TO CLAIMS**

The Office Action objects to Claims 11, 12, 14, and 27.

Regarding Claim 11, the Office Action simply notes that Claim 11 is being interpreted in a particular manner. This is not a claim objection. The Office Action is not objecting to any type of informality in Claim 11. Moreover, the Applicant respectfully objects to the interpretation of Claim 11 to the extent that the interpretation reads elements into Claim 11 or otherwise interprets Claim 11 in a manner that is inconsistent with the recitations of Claim 11.

Regarding Claim 14, the Office Action simply makes a statement regarding how Claim 14 is being examined. Again, this is not a claim objection. The Office Action is not objecting to any type of informality in Claim 14.

Regarding Claims 12 and 27, the Office Action appears to improperly equate the

“identification information” recited in Claims 1 and 16 with the “customer input” recited in Claims 12 and 27. These recitations do not refer to the same information. The Applicant’s specification clearly recites using “customer input” during presentation of programming information to modify the programming information. Support for these recitations in Claims 12 and 27 may be found, among other places, at: page 11, line 23 – page 12, line 13; page 20, line 11 – page 21, line 6; and page 22, line 24 – page 23, line 8.

Accordingly, the Applicant respectfully requests withdrawal of the objections to the claims.

## **II. REJECTIONS UNDER 35 U.S.C. § 102**

The Office Action rejects Claims 1, 3, 4, 8, 9, 11-14, 16, 18, 19, 23, 24, and 26-29 under 35 U.S.C. § 102(e) as being anticipated by U.S. Patent No. 6,422,464 to Terranova (“*Terranova*”). The Office Action rejects Claims 1, 2, 15-17, and 30 under 35 U.S.C. § 102(e) as being anticipated by U.S. Patent No. 6,152,591 to McCall et al. (“*McCall*”). These rejections are respectfully traversed.

A cited prior art reference anticipates the claimed invention under 35 U.S.C. § 102 only if every element of a claimed invention is identically shown in that single reference, arranged as they are in the claims. (*MPEP § 2131; In re Bond*, 910 F.2d 831, 832, 15 U.S.P.Q.2d 1566, 1567 (*Fed. Cir.* 1990)). Anticipation is only shown where each and every limitation of the claimed invention is found in a single cited prior art reference. (*MPEP § 2131; In re Donohue*, 766 F.2d 531, 534, 226 U.S.P.Q. 619, 621 (*Fed. Cir.* 1985)).

*Terranova* and *McCall* both fail to anticipate converting “customer profile information” into a “profile data word” at a “central location” and decoding the profile data word to define “decoded

profile information” at a “commercial transaction location” as recited in Claims 1 and 16. *Terranova* and *McCall* also both fail to anticipate using “profile information” at a “commercial transaction location” to control the “merging” of “update information” and “advertising information,” where the update information and advertising information were “previously transmitted” to the commercial transaction location from a “central location” and “stored” at the commercial transaction location “prior to [a] commercial transaction” as recited in Claims 1 and 16.

*Terranova* recites a system for providing customer-selected information to a customer when the customer is using a fuel dispenser. (*Abstract*). The customer is allowed to “pre-select” the type of information to be provided to the customer at the fuel dispenser. (*Col. 38, Lines 24-26*). When the customer uses a credit card, a host computer uses the credit card number to retrieve the customer’s preferences. (*Col. 38, Lines 26-39*). The host computer then sends a message containing the customer’s preferences to the fuel dispenser or a site controller, which uses the customer’s preferences to present information to the customer. (*Col. 38, Lines 38-39*). The actual information to be displayed to the customer apparently comes from a “central provider,” a local “dedicated auxiliary audio/video source” (such as a laser disc or DVD player), or “other data networks or systems.” (*Col. 37, Lines 42-52; Col. 39, Lines 12-20; Col. 40, Lines 22-24*).

First, *Terranova* simply recites a system where customer preferences may be sent from a host computer to a fuel dispenser or site controller. *Terranova* lacks any mention of converting the customer preferences into a data word at the host computer and decoding the data word at the fuel dispenser or site controller. As a result, *Terranova* fails to anticipate converting “customer profile information” into a “profile data word” at a “central location” and decoding the profile data word to

define “decoded profile information” at a “commercial transaction location” as recited in Claims 1 and 16.

Second, the site controller or fuel dispenser of *Terranova* simply receives the customer’s preferences and then goes and retrieves information to be presented to the customer from various sources. Nothing in *Terranova* indicates that the information to be presented to the customer is received from a “central location” (which also provides the customer’s preferences) and “stored” at the site controller or fuel dispenser “prior to [a] commercial transaction.” The site controller or fuel dispenser of *Terranova* appears to contact the “central provider” or “other data networks or systems” at the time the information is needed. While *Terranova* does recite using a local laser disc or DVD player, the information provided by the local laser disc or DVD player is not downloaded from a “central location” and “stored” at the site controller or fuel dispenser. As a result, *Terranova* fails to anticipate using “profile information” at a “commercial transaction location” to control the “merging” of “update information” and “advertising information,” where the update information and advertising information were “previously transmitted” to the commercial transaction location from a “central location” and “stored” at the commercial transaction location “prior to [a] commercial transaction” as recited in Claims 1 and 16.

*McCall* recites a system for providing a fuel dispenser with a graphics interface, where the system may be used to retrofit existing fuel dispensers. (*Abstract*). The system includes a multimedia controller that presents commercials and other information to a customer who is using the fuel dispenser. (*Col. 6, Lines 14-17*). The commercials may be selected based on recorded information about the customer. (*Col. 11, Lines 1-10*). The information about the customer may

include, among other things, the customer's previous purchase history or demographic information. (*Col. 11, Lines 11-14*). The actual commercials displayed to the customer are stored in a database located locally inside the store or at a remote location. (*Col. 4, Lines 12-22; Col. 5, Lines 51-54*).

First, *McCall* simply recites a system where information about customers may be used to select a commercial. *McCall* lacks any mention of converting the customer information into a data word at a central computer or system and decoding the data word at the fuel dispenser or a local computer or system. As a result, *McCall* fails to anticipate converting "customer profile information" into a "profile data word" at a "central location" and decoding the profile data word to define "decoded profile information" at a "commercial transaction location" as recited in Claims 1 and 16.

Second, *McCall* simply indicates that the commercials to be presented may reside in a local or remote database. *McCall* lacks any mention that the commercials stored in a local database are received from a "central location" (which also provides the customer's preferences). Moreover, *McCall* lacks any mention that information about customers is used to control the "merging" of "update information" and "advertising information," where the update information and advertising information were previously transmitted to and stored at the local location. As a result, *McCall* fails to anticipate using "profile information" at a "commercial transaction location" to control the "merging" of "update information" and "advertising information," where the update information and advertising information were "previously transmitted" to the commercial transaction location from a "central location" and "stored" at the commercial transaction location as recited in Claims 1 and 16.

Accordingly, the Applicant respectfully requests withdrawal of the § 102 rejections and full

allowance of Claims 1-4, 8, 9, 11-19, 23, 24, and 26-30.

**III. NEW CLAIMS**

The Applicant has added new Claims 39-49. The Applicant respectfully submits that no new matter has been added. The Applicant respectfully requests entry and full allowance of Claims 39-49.

**IV. CONCLUSION**

The Applicant respectfully asserts that all pending claims in this application are in condition for allowance and respectfully requests full allowance of the claims.

If any issues arise, or if the Examiner has any suggestions for expediting allowance of this application, the Applicant respectfully invites the Examiner to contact the undersigned at the telephone number indicated below or at *rmccutcheon@davismunck.com*.

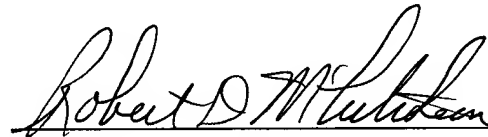
The Applicant has included the appropriate fee to cover the cost of this AMENDMENT AND RESPONSE. The Commissioner is hereby authorized to charge any additional fees connected with this communication (including any additional extension of time fees) or credit any overpayment to Davis Munck Deposit Account No. 50-0208.

Respectfully submitted,

DAVIS MUNCK, P.C.

Date: \_\_\_\_\_

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